

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

Case No. 9:24-cv-81408

MELISSA JOHNSON,

Plaintiff,

v.

APX OPERATING COMPANY, LLC,  
d/b/a BOOMERS PARKS,

Defendant.

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**COMPLAINT AND DEMAND FOR JURY TRIAL**

Plaintiff, Melissa Johnson ("Johnson"), by and through her undersigned attorney, hereby files this Complaint against Defendant, APX Operating Company, LLC, d/b/a Boomers Parks ("Boomers"), for a violation of Title III of the Americans with Disabilities Act, 42 U.S.C. § 12181 *et seq.*, as amended ("ADA"); and the Florida Civil Rights Act of 1992, Fla. Stat. § 760.10, *et seq.*, as amended ("FCRA").

**PARTIES, JURISDICTION AND VENUE**

1. Johnson is a current resident of Aiken County, South Carolina. During the events alleged in this Complaint, Johnson was a resident of Broward County, Florida. Johnson is not a minor, an incompetent person or an active member of the military services of the United States.

2. Boomers is a Florida limited liability company with its principal place of business in Palm Beach County, Florida. Boomers, which is a privately-held company that operates six

family entertainment centers and two water parks in California, Florida and New Jersey, constitutes a place of public accommodation under the ADA and FCRA.

3. The jurisdiction of this Court is predicated upon 28 U.S.C. § 1331 as this case involves questions of federal law. Further, this Court has supplemental jurisdiction over the state law claim pursuant to 28 U.S.C. § 1367(a) because the claim forms part of the same case or controversy under Article III of the United States Constitution. Johnson's state law claim also shares all common operative facts with her federal law claim. Further, this Court's resolution of Johnson's federal and state claims in a single action serves the interests of judicial economy, convenience, consistency and fairness to the parties.

4. Venue is proper in the United States District Court for the Southern District of Florida, pursuant to 28 U.S.C. § 1391(b), wherein: (a) the violations of federal and state law occurred in this District; and (b) Boomers conducted, and currently conducts, business operations in this District.

### **GENERAL ALLEGATIONS**

5. Boomers operates Boomers Boca, which is an amusement park located in Boca Raton, Florida. Boomers Boca features numerous activities for guests, including mini-golf, bumper boats, bumper cars, Lazer Tag, an arcade, batting cages and go-karts.

6. A go-kart is:

a simple-to-open automobile having four wheels with a small yet powerful engine. They are designed without any protective bodywork for driving and racing purposes. These karts feature a steering wheel, axles, brake pedal, tires, seats, and throttle just like cars. Go-karts come in a variety of shapes and sizes ranging from 50-90 cc to 1000-1100cc and in between. Depending upon the purpose, mostly recreational go-karts function on 1255 two stroke engines allowing them to achieve

a speed of 115 mph. However, professional go-karts have more powerful engines to reach higher speeds.<sup>1</sup>

7. Johnson was born with a congenital limb-difference. Specifically, Johnson does not possess a right hand. Instead, Johnson's arm, which she nicknamed "Fred," reaches four and one-half inches from the elbow.

8. Johnson has experienced years of persecution, humiliation, stares, belittling and accusations of being less than human. As a result, Johnson has been treated by a mental health professional to address the discrimination and scorn she faces daily. Johnson has been diagnosed with post-traumatic stress disorder ("PTSD"), anxiety, depression and premenstrual dysphoric disorder ("PMDD"). Johnson's physician prescribed Lamotrigine and Bupropion to treat her condition.

9. Johnson possesses a valid Florida driver's license. She has been licensed to drive in the state for approximately 24 years. Since 2018, Johnson has operated the following vehicles:

VEHICLE	ACCIDENTS
Boomers Boca Double Kart	None
2021 Jeep Renegade	None
2021 Camaro	None
2022 Kia K5	One (fault of the other driver)

10. In 2018, Johnson visited Boomers Boca and operated a go-kart without incident.

11. On July 2, 2024, Johnson and her family (partner and two sons) purchased the "Elite All Day" passes online. Johnson intended to share a fun-filled day at Boomers Boca. In fact, the day was special for the family—Johnson's youngest son's height had increased so that he qualified to drive a go-kart solo<sup>2</sup>. Johnson and her youngest son were excited to share this experience with each other.

<sup>1</sup> Issac M., "What Is Go Karting 2023 – Types of Go Karts & How It Works," GoKartDude.com (Aug. 2, 2024), available at: <https://gokartdude.com/what-is-go-karting/> (visited Oct. 14, 2024).

<sup>2</sup> During Johnson's 2018 visit, due to his then height, the youngest son was not able to operate the go-kart. Instead, he

12. Johnson and her sons arrived at Boomers Boca at approximately 4:00 pm. The family proceeded to the front desk/check-in counter where the receipt from the online purchase was scanned on Johnson's cell phone. The front desk staff provided Johnson with three passes.

13. At approximately 4:15 pm, Johnson and her sons walked from the check-in counter to the go-karts station and got in line. A few minutes later, Johnson's significant other, Richard Wing, arrived at the park after leaving work.

14. While Johnson and her sons were waiting in line at the go-kart station, they observed people operating go-karts on the course. One person caught the eye of Johnson. Specifically, Johnson witnessed a little boy, who was driving a single go-kart erratically and out-of-control, ping-ponged off a woman who was operating another single go-kart. Johnson also observed that when the boy pulled-in at the conclusion of the ride, his go-kart hit some parked go-karts so hard that the unused vehicles drifted into the track.

15. After approximately twenty minutes, an attendant checked the passes of Johnson and her sons. The three entered and buckled themselves into solo go-karts. An attendant subsequently conducted a safety check in which he ensured all drivers' seatbelts were properly fastened.

16. A few moments later, attendants arrived at Johnson's go-kart. One of the attendants informed Johnson that she was not allowed to ride the go-kart. Johnson requested to speak with the attendants' manager. She was directed to proceed across the track to speak with two persons (one White female and one Black female), who identified themselves as managers.

17. Johnson felt humiliated when she was pulled-off the go-kart by the attendants and, thereafter, escorted from the go-kart, across the lanes, out of the exit gates and walk across the

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was a passenger on Johnson's Double Kart.

track to speak with the managers. Johnson's emotional state was heightened as the incident unfolded in front of her children and the crowd, which consisted of the remaining go-kart drivers and riders who were either buckled-in or waiting-in-line.

18. The managers informed Johnson that due to safety concerns she was not permitted to operate a go-kart. The managers stated: (1) a State of Florida code or law existed that prohibited one-handed people from operating a go-kart; (2) Boomers Boca does not provide waivers like other establishments (i.e., Extreme Action Park); and (3) the last time persons from the corporate office visited, they had seen another individual with a limb-difference, and corporate stated: ***"They did not want to see that."***

19. One of the managers escorted Johnson to the front desk. Johnson asked for a refund, but the manager offered a rain check and credits that could be used at the restaurant and for games.

20. After Ms. Johson regained some of her composure, the family played laser tag, attempted to ride the bumper boats<sup>3</sup> and played miniature golf. The family walked to the restaurant and ordered food and drinks. However, the cashier informed Johnson that the credits could not be used at the restaurant.

21. Johnson and her husband subsequently submitted a Google review. Boomers responded with a copy-and-paste response. Johnson called the telephone number attached to the response. A Boomers Boca employee answered the call. Johnson requested a corporate telephone number. The employee claimed a corporate telephone number did not exist, but she could contact corporate by email. Johnson submitted a letter to corporate using the email supplied by the Boomer Boca employee. As of the date of this letter, Johnson has not received a response.

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<sup>3</sup> The family waited about 15 minutes for an attendant to show-up to operate the ride. No one came. The family decided to proceed to the miniature golf course.

22. Johnson and her family did not observe any signs or online notifications regarding prohibitions on limb-difference people in participating in certain activities at Boomers Boca.

However, Johnson did see a sign regarding pregnant mothers:

Expectant mothers or guests with a history of back, neck, joint, and muscle or health problems should not ride and do so at your own risk of injury. Guests wearing casts are not permitted to drive.

23. Further, a review of the Boomers Boca website did not identify any warnings, policies or procedures prohibiting limb-different customers from operating go-karts.

24. Johnson, through an attorney, submitted a pre-suit notice and settlement demand letter to Boomers Boca, but did not receive a written response. Thus, Johnson elected to pursue a lawsuit. Johnson did not want to litigate, but felt she was forced to do so since she only wanted an actual legit reasoning for Boomers Boca's decision-making. Further, Johnson desired to know how the company was going to address limb-different people in the future, so they do not suffer the humiliation that she experienced on July 2, 2024.

25. Johnson has retained the undersigned attorney to represent her interest in this matter and is obligated to pay said counsel a reasonable fee for his services.

**COUNT I**  
**ADA: DISABILITY DISCRIMINATION**

26. Johnson re-alleges each and every allegation contained in paragraphs 1-25, as if they were fully set forth herein.

27. On July 2, 2024, Boomers engaged in disability discrimination against Johnson in violation of the ADA. Specifically, Boomers violated the ADA when it discriminated against Johnson because of her limb-different disability when employees prevented her from operating a go-kart.

28. Johnson is an individual with a disability within the meaning of the ADA. In particular, Johnson, as a limb-different individual, is a qualified individual with a disability under the ADA.

29. Boomers owns or operates a place of public accommodation. Specifically, Boomers, which owns and operates Boomers Boca, constitutes a place of public accommodation under the ADA.

30. Boomers discriminated against Johnson by denying Johnson, on the basis of her disability, full and equal enjoyment of the goods and services provided by Boomers at Boomers Boca. In fact, Boomers discriminated against Johnson when Boomer Boca managers and employees denied her, on the basis of her disability, full and equal enjoyment of the go-kart ride.

31. Even if Boomers asserts that its unwritten policy prohibiting limb-different persons from operating a go-kart is necessary for the safe operation of the ride, as well as to comply with state law, Boomers remains in violation of the law. Specifically:

- a. The Florida Statutes and the Florida Administrative Code require amusement parks to comply with ASTM International (formerly known as American Society for Testing and Materials) standards, which, in turn, demand compliance with manufacturer recommendations.
- b. Research of national go-kart manufacturers' safety bulletins did not reveal any requirements or prohibitions on limb-different go-kart drivers. For example, J&J Amusements, Inc., a major go-kart manufacturer, publishes safety and operational bulletins for its Eagle, Double Eagle and Talon go-kart products, which appear visually similar to the go-karts operated by Boomers Boca. See <https://jjamusements.com/service-safety-bulletins/>.

J&J's bulletins did not include any recommendations or warnings concerning limb-different people operating one of its go-kart products.

- c. Boomers Boca managers' admission that the limb-different policy was not based on a safety audit, an analysis of a manufacturer's recommendations or a scientific evaluation of the go-kart ride<sup>4</sup>, but on corporate officers' arbitrary command (i.e., "They did not want to see" a limb-different person operate a go-kart) demonstrates inconsistency with the law.
- d. Johnson's safe driving record and operation of a Double Kart without incident in 2018 demonstrates her ability to drive a go-kart safely.

32. As a direct, legal and proximate result of Boomers' actions, Johnson sustained, and will continue to sustain, economic and emotional injuries, resulting in damages in an amount to be proven at trial.

## **COUNT II**

### **FCRA: DISABILITY DISCRIMINATION**

33. Johnson re-alleges each and every allegation contained in paragraphs 1-25, as if they were fully set forth herein.

34. On July 2, 2024, Boomers engaged in disability discrimination against Johnson in violation of the FCRA. Specifically, Boomers violated the FCRA when it discriminated against Johnson because of her limb-different disability when employees prevented her from operating a go-kart.

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<sup>4</sup> Boomers Boca's published safety restrictions for the go-kart ride include: (a) drivers must be at least 58 inches tall; (b) driver of double go-kart carrying a passenger must be at least 60 inches tall or 58 inches tall with a valid driver's license; (c) passengers must be at least 40 inches tall; (d) adults can ride together on a Double Kart as long as kart weight limits are not exceeded; (e) expectant mothers or guests with a history of back, neck, joint and muscle or health problems should not ride and do so at your own risk of injury; and (f) guests wearing casts are not permitted to drive. See <https://boomersparks.com/boca/attractions/go-karts/>.



35. Johnson is an individual with a disability within the meaning of the FCRA. In particular, Johnson, as a limb-different individual, is a qualified individual with a disability under the FCRA.

36. Boomers owns or operates a place of public accommodation. Specifically, Boomers, which owns and operates Boomers Boca, constitutes a place of public accommodation under the FCRA.

37. Boomers discriminated against Johnson by denying Johnson, on the basis of her disability, full and equal enjoyment of the goods and services provided by Boomers at Boomers Boca. In fact, Boomers discriminated against Johnson when Boomer Boca managers and employees denied her, on the basis of her disability, full and equal enjoyment of the go-kart ride.

38. Even if Boomers asserts that its unwritten policy prohibiting limb-different persons from operating a go-kart is necessary for the safe operation of the ride, as well as to comply with state law, Boomers remains in violation of the law. Specifically:

- a. The Florida Statutes and the Florida Administrative Code require amusement parks to comply with ASTM International (formerly known as American Society for Testing and Materials) standards, which, in turn, demand compliance with manufacturer recommendations.
- b. Research of national go-kart manufacturers' safety bulletins did not reveal any requirements or prohibitions on limb-different go-kart drivers. For example, J&J Amusements, Inc., a major go-kart manufacturer, publishes safety and operational bulletins for its Eagle, Double Eagle and Talon go-kart products, which appear visually similar to the go-karts operated by Boomers Boca. See <https://jjamusements.com/service-safety-bulletins/>.

J&J's bulletins did not include any recommendations or warnings concerning limb-different people operating one of its go-kart products.

- c. Boomers Boca managers' admission that the limb-different policy was not based on a safety audit, an analysis of a manufacturer's recommendations or a scientific evaluation of the go-kart ride<sup>5</sup>, but on corporate officers' arbitrary command (i.e., "They did not want to see" a limb-different person operate a go-kart) demonstrates inconsistency with the law.
- a. Johnson's safe driving record and operation of a Double Kart without incident in 2018 demonstrates her ability to drive a go-kart safely.

39. As a direct, legal and proximate result of Boomers' actions, Johnson sustained, and will continue to sustain, economic and emotional injuries, resulting in damages in an amount to be proven at trial.

### **JURY DEMAND**

40. Johnson demands a trial by jury of all issues so triable, pursuant to Federal Rule of Civil Procedure 38.

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<sup>5</sup> Boomers Boca's published safety restrictions for the go-kart ride include: (a) drivers must be at least 58 inches tall; (b) driver of double go-kart carrying a passenger must be at least 60 inches tall or 58 inches tall with a valid driver's license; (c) passengers must be at least 40 inches tall; (d) adults can ride together on a Double Kart as long as kart weight limits are not exceeded; (e) expectant mothers or guests with a history of back, neck, joint and muscle or health problems should not ride and do so at your own risk of injury; and (f) guests wearing casts are not permitted to drive. See <https://boomersparks.com/boca/attractions/go-karts/>.

**PRAYER FOR RELIEF**

41. WHEREFORE, Plaintiff, Melissa Johnson, requests this Court issue judgment against Defendant, APX Operating Company, LLC, d/b/a Boomers Parks, as follows:

- a. Declaring Defendant's actions, policies, practices and decisions as alleged in this Complaint are unlawful, pursuant to Federal Rule Civil Procedure 57 **[Counts I and II]**;
- b. Enjoining Defendant from engaging in the unlawful acts complained in this Amended Complaint, pursuant to Federal Rule Civil Procedure 65 **[Counts I and II]**;
- c. Awarding compensatory damages (including, but not limited to, damages for mental anguish, loss of dignity and any other intangible injuries), pre-judgment and post-judgment interest as allowed by law in an amount to be proven at trial **[Count II]**;
- d. Awarding attorney's fees, as well as legally-related costs and expenses, pursuant to: 42 U.S. Code § 12205 **[Count I]**; and Fla. Stat. § 760.11 **[Count II]**; and
- e. Granting such other relief (in law or equity), to Johnson as this Court may deem just and proper **[Counts I and II]**.

Dated: November 11, 2024.

Respectfully submitted,

s/ Michael L. Buckner

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